

**Introduced by Senators Cannella, Berryhill, Emmerson, and
Harman**

June 28, 2011

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 12 to Article VII thereof, and by amending subdivision (b) of Section 8 of, amending subdivisions (b) and (f) of Section 17 of, and repealing and adding subdivision (e) of Section 17 of, Article XVI thereof, relating to public employees' benefits.

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, as introduced, Cannella. Public employees' retirement.

(1) The California Constitution provides that the retirement board of a public pension or retirement system has plenary authority and fiduciary responsibility for investment of moneys and administration of the system. Existing law establishes various public agency retirement systems, including the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937, among others, and these systems provide defined pension benefits to public employees based on age, service credit, and final compensation. The California Constitution permits a city or county to adopt a charter for purposes of its governance that supersedes general laws of the state in regard to specified subjects, including compensation of city or county employees. The California Constitution also establishes the University of California as a public trust with full powers of organization and government, subject only to specified limitations. Charter cities and the University of California

may establish pension plans under their respective independent constitutional authority.

This measure would provide that any change to the formula used to calculate the pension benefits of a member of a public retirement system, as defined, that results in an increase in the member's pension benefits shall apply only to service performed on and after the operative date of the change, and would prohibit the retroactive application of that change.

The measure also would require any retirement plan for public employees hired on and after July 1, 2012, to expressly provide that the public employer retains the right to prospectively change retirement benefits, as specified.

The measure would require, with respect to public employees first hired on and after July 1, 2012, the governing body of a public retirement system to annually set an actuarially sound contribution rate for any defined benefit plan based on the recommendations of an independent plan actuary. The measure would permit a public employer to offer those employees a defined benefit plan only as part of a uniform hybrid retirement plan, as specified, and only if the Legislature has established the hybrid retirement plan and the defined pension benefits that may be provided, as specified. The measure would require the employer and employee to share equally the hybrid plan costs. Any benefits under a defined benefit plan would be based on a member's annual base pay averaged over the consecutive 5-year period immediately preceding his or her retirement or last separation from state service if earlier.

The measure would increase, beginning 30 days after its effective date, employee contribution rates for members of defined benefit plans by at least an additional 5% of current salary until the pension fund of the plan is 90% funded, as determined by an independent plan actuary. The bill would require the funded status of a defined benefit plan to be calculated annually, as specified.

(2) Existing state and local public employee retirement systems are funded by investment returns and employer and employee contributions. The California Constitution provides that the retirement board of a public pension or retirement system has the exclusive power to provide for actuarial services in order to assure the competency of the assets of the system. Existing law, with respect to PERS, requires the Governor to include in the annual Budget Act the contribution rates submitted by the system actuary of the liability on account of employees of the state.

This measure would permit an actuary to authorize a suspension of employer contributions to a defined benefit plan for a fiscal year only if the actuary determines that the plan has a surplus of actuarially determined plan assets sufficient to fund the employer's share of estimated plan normal costs for the next 30 years.

The measure would also prohibit an employer from paying the employee contribution to a defined benefit plan for any employee, would require that an employee's rate of contributions represent a reasonable percentage of the normal costs of the plan, and would prohibit that rate from being less than the contribution rate applicable to his or her membership classification on January 1, 2012.

This measure would also require STRS to set an actuarially sound contribution rate to be paid annually to the system, to be used as a basis for increasing the state's contribution to that system.

(3) Existing law permits members of PERS, STRS, and county, city, and district retirement systems that have adopted specified provisions, to purchase up to 5 years of additional retirement service credit by contributing an amount that, at the time of purchase, provides for the resulting increase in employer liability.

This measure would prohibit a public retirement system from allowing the purchase of additional retirement service credit, as described above.

(4) Existing law generally prohibits any person who has retired from being employed in any capacity with the same employer unless he or she is first reinstated from retirement, except as authorized.

This measure would, on or after July 1, 2012, prohibit a person from being employed by, or providing personal services as a contractor for, a public employer while he or she is receiving pension payments from a public retirement system.

(5) Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified.

This measure would require that a public employee, as defined, who is convicted of any felony for conduct related to his or her office or employment on or after the effective date of this measure forfeit the rights and benefits to which he or she is entitled in any public retirement system in which he or she is a member, as specified.

(6) The Public Employees' Medical and Hospital Care Act, which is administered by the Board of Administration of PERS, establishes various percentages for employer contributions for health care benefits provided under the approved health benefit plan in which the employee or annuitant is enrolled.

This measure would require public employees to pay an increased amount, that is proportional to employee base pay, as specified, for employee health care benefits. The measure would also require a public employee hired on and after July 1, 2012, to contribute to the cost of postretirement health care benefits, in proportion to the employee's base pay and years of service, as specified, if the public employer provides those benefits. The bill would prohibit employees hired on and after July 1, 2012, from being eligible for full postretirement health care benefits until the employee has 25 years of service. The measure would provide that these provisions shall not impair existing collective bargaining agreements, but would apply upon expiration of those agreements.

(7) The measure would declare that the above-described provisions are self-executing and would require any bill, ordinance, resolution, or other measure enacted to implement any of those provisions to be approved by a $\frac{2}{3}$ vote of the membership of each house of the Legislature, the Regents of the University of California, or the governing body of the public employer. The measure would also require any bill enacted to change public employee retirement benefits or health care benefits to be approved by a $\frac{2}{3}$ vote of the membership of each house of the Legislature. The measure would declare that the above-described provisions would not limit any disability, death, or survivor benefits.

(8) The California Constitution requires that the moneys to be applied by the state for the support of school districts and community college districts be not less than the greater of 3 amounts computed pursuant to specified tests. The Constitution provides that the first of those tests is the amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87. The Constitution provides that the 2nd and 3rd tests are the amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall

not be less than the total amount from these sources in the prior fiscal year, excluding specified revenues, and adjusted for specified factors.

Existing law requires the state to appropriate a sum equal to 8% of creditable compensation, as specified, to be deposited in the Teachers' Retirement Fund, for the initial purpose of financing the Defined Benefit Program of the State Teacher's Retirement System. Existing law does not count these appropriations toward meeting the state's constitutional obligation to annually provide funding for the support of school districts and community college districts, as described above.

This measure would specify, for purposes of the first test, that the "General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87" excludes General Fund revenues appropriated for purposes of the State Teachers' Retirement System. The measure would specify, for the 2012–13 fiscal year, and for purposes of the 2nd and 3rd tests, that "total allocations from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes" for the prior fiscal year excludes General Fund revenues appropriated for purposes of the State Teachers' Retirement System.

(9) The California Constitution provides that the retirement board of a public pension or retirement system has the exclusive power to provide for actuarial services in order to assure the competency of the assets of the system.

This measure would delete those provisions and would instead require that the retirement board of a public pension or retirement system select an independent plan actuary, to serve for a term of not less than 12 years, from a specified list to be established by the California Actuarial Advisory Panel. The measure would permit, following the initial term of service, the independent actuary to be appointed by the retirement board to subsequent terms. The measure would prohibit the reduction of the independent plan actuary's salary and benefits during his or her term of office, and would require his or her salary agreement to provide for annual increases in pay, except as specified. The measure would limit the circumstances under which the independent plan actuary may be removed from office.

The measure would grant an independent plan actuary exclusive authority to provide actuarial services and would require a retirement board to adopt the actuary's recommendations without amendment. The measure would require the actuary to be guided by prevailing actuarial standards, any applicable governmental accounting standards

that are consistent with prevailing actuarial standards, and any contracts related to the required funding of the system, and to seek to maximize retirement security and minimize the employer's long-term cost. The measure would provide for the removal of plan actuaries who were not chosen pursuant to its requirements, and would require the retirement board of a public pension or retirement system to ensure that the independent plan actuary has sufficient staff and budgetary resources to perform all of his or her required duties.

(10) The California Constitution prohibits the number, terms, and method of selection or removal of members of the retirement board of a public pension or retirement system, which includes in its composition elected employee members, from being changed, amended, or modified by the Legislature from those that were required by law or otherwise in effect on July 1, 1991, unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

This measure would additionally require $\frac{2}{3}$ of the members of the retirement board of a public pension or retirement system to have demonstrated expertise in the financial, legal, accounting, or health care fields and would prohibit them from being members of that system or from having immediate family members who are members of that system. The measure would authorize the Legislature to prescribe the criteria and process for selecting those members by a statute enacted by a $\frac{2}{3}$ vote of the membership of each house.

(11) The measure would provide that if the Attorney General fails to defend the constitutionality of its provisions, following its approval by the voters, a taxpayer may intervene and participate for that purpose in any court action challenging its constitutionality, and the fees and costs of defending the action would be a charge on funds appropriated to the Attorney General.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 WHEREAS, The bipartisan Milton Marks "Little Hoover"
- 2 Commission on California State Government reports that the 10
- 3 largest public pension systems in California have a combined
- 4 unfunded accrued actuarial liability of two hundred forty billion
- 5 dollars (\$240,000,000,000); and

1 WHEREAS, The Little Hoover Commission has determined
2 that public pensions in California are unsustainably expensive;
3 and

4 WHEREAS, Projections show that the combined costs to the
5 state's General Fund of the Public Employees' Retirement System,
6 the State Teachers' Retirement System, and retiree health care will
7 grow from 5 percent of the state's annual budget to 10 percent
8 over the next 30 years; and the Little Hoover Commission reports
9 that the situation with many local governments is even worse; and

10 WHEREAS, As dire as these figures are, they are based on the
11 optimistic assumptions of most public pension governing boards
12 regarding the rates of return that they expect to earn on their
13 investments and, therefore, may actually understate the magnitude
14 of the problem severalfold; and

15 WHEREAS, The rising cost of public employee retirement
16 benefits threatens the ability of government agencies to deliver
17 the vital services upon which the public depends and, therefore,
18 the Legislature intends to exercise the police powers of the state
19 to make reasonable modifications to public pension systems while
20 protecting employees' earned, vested rights; now, therefore, be it

21 *Resolved by the Senate, the Assembly concurring,* That the
22 Legislature of the State of California at its 2011–12 Regular
23 Session commencing on the sixth day of December 2010,
24 two-thirds of the membership of each house concurring, hereby
25 proposes to the people of the State of California that the
26 Constitution of the State be amended as follows:

27 First—That Section 12 is added to Article VII thereof, to read:

28 SEC. 12. (a) As used in this section, the following definitions
29 shall apply:

30 (1) "Employee contribution" means the contributions to a public
31 retirement system required to be paid by a member of the system
32 as fixed by law, contract, or contract amendment.

33 (2) "Independent plan actuary" or "actuary of a public retirement
34 system" or any other similar term in this Constitution, or in state
35 or local law, means the independent plan actuary appointed
36 pursuant to Section 17 of Article XVI.

37 (3) "Member" means a public employee who is a member of a
38 public retirement system.

39 (4) "Public employee" means an officer or employee of a public
40 employer.

1 (5) “Public employer” means the following:

2 (A) The State, including the Legislature, the courts, and the
3 University of California.

4 (B) Any political subdivision of the State, including a charter
5 city, charter county, charter city and county, school district, any
6 special district, any public board or commission, and the California
7 State University.

8 (6) “Public retirement system” means all state and local public
9 pension or retirement systems, including, but not limited to, the
10 Public Employees’ Retirement System, the State Teachers’
11 Retirement System, the Judges’ Retirement System II, the
12 Legislators’ Retirement System, the University of California
13 Retirement System, county and district retirement systems created
14 pursuant to the County Employees Retirement Law of 1937, and
15 any other entity that provides retirement benefits to public
16 employees on behalf of a public employer.

17 (7) “Retirement benefits” includes pension benefits and defined
18 contribution plan benefits.

19 (b) The following shall apply to all public employees, regardless
20 of the date first hired, who are members of a public retirement
21 system:

22 (1) Any change, adopted on or after the effective date of this
23 section, to the formula used to calculate the pension benefits of a
24 member that results in an increase in the member’s pension benefits
25 shall apply only to service performed on and after the operative
26 date of the change, and shall not be applied to any service
27 performed prior to the operative date of the change.

28 (2) On and after the effective date of this section, a member
29 shall not make contributions to receive additional retirement service
30 credit for any time that does not qualify as public service or military
31 service by the pension or retirement system.

32 (3) Notwithstanding Section 17 of Article XVI or any other
33 provision of law, if the independent plan actuary of a public
34 retirement system determines, in any fiscal year, that a defined
35 benefit plan has a surplus of actuarially determined plan assets
36 sufficient to fund the employer’s share of the estimated plan normal
37 costs for the next 30 years, then the actuary may authorize a
38 suspension of employer contributions to the plan for that fiscal
39 year. Under no other circumstances shall a suspension of employer
40 contributions to a defined benefit plan be authorized.

1 (4) The public employer shall be prohibited from paying on
2 behalf of a member any of the member's required employee
3 contributions to a defined benefit plan. The rate of required
4 employee contributions shall represent a reasonable percentage of
5 the normal costs of the plan and shall not be less than the employee
6 contribution rate applicable to his or her membership classification
7 on January 1, 2012.

8 (5) (A) Beginning 30 days after the effective date of this section,
9 and notwithstanding paragraph (4) or any other provision of this
10 Constitution, including Section 9 of Article I, contribution rates
11 for public employees who are members of a defined benefit plan
12 shall be increased by at least an additional 5 percent of current
13 salary and shall remain at that level until the pension fund of the
14 defined benefit plan is 90 percent funded, as determined pursuant
15 to subparagraph (B) by an independent plan actuary.

16 (B) The funded status of a defined benefit plan shall be
17 calculated annually, as the ratio of the market value of assets of
18 the plan to the actuarial liabilities, including any outstanding
19 balance of any pension obligation bonds after January 1, 2011,
20 using the actuarial standards and assumptions established under
21 federal law by the federal Employee Retirement Income Security
22 Act of 1974 (ERISA), or any successor to that act, for private
23 sector pension funds.

24 (c) For public employees first hired on and after July 1, 2012,
25 a public employer shall comply with all of the following:

26 (1) A public employer shall not offer any new or existing
27 retirement plan that fails to conform with this subdivision.

28 (2) Any retirement plan offered by a public employer shall
29 expressly provide that the public employer retains the right to
30 prospectively change any retirement benefits that accrue with
31 respect to service performed on and after the operative date of the
32 change for any member prior to retirement, subject to this section.

33 (3) (A) A public employer may offer, and a public retirement
34 system may provide, a defined benefit plan only as part of a
35 uniform hybrid retirement plan that includes a defined contribution
36 plan and only if a statute, enacted by a two-thirds vote of the
37 membership of each house of the Legislature, has established the
38 uniform hybrid retirement plan and the pension benefits that may
39 be provided by the defined benefit plan in accordance with this
40 section .

1 (B) The hybrid retirement plan shall be designed to provide,
2 upon retirement for a full career in public service, replacement
3 income as prescribed in this subparagraph:

4 (i) The service retirement formula applicable for the calculation
5 of a defined pension benefit of any safety member classification
6 shall provide a benefit upon retirement for a full career in public
7 service at 57 years of age that, when combined with anticipated
8 defined contribution plan benefits and any benefit payments under
9 the federal Social Security Act, shall not exceed 75 percent of the
10 member's final compensation. For purposes of this clause, a "full
11 career in public service" means 30 years of public service.

12 (ii) The service retirement formula applicable for the calculation
13 of a defined pension benefit for any member in a nonsafety
14 classification shall provide a benefit upon retirement for a full
15 career in public service at 65 years of age that, when combined
16 with anticipated defined contribution plan benefits and any benefit
17 payments under the federal Social Security Act, shall not exceed
18 75 percent of the member's final compensation. For purposes of
19 this clause, a "full career in public service" means 35 years of
20 public service.

21 (C) (i) A public employer and a public employee shall share
22 equally the hybrid retirement plan costs, including payments for
23 any unfunded liabilities.

24 (ii) The governing body of a public retirement system shall
25 annually set an actuarially sound contribution rate for the defined
26 benefit plan, which rate shall be based on the recommendations
27 of an independent plan actuary.

28 (iii) The pension benefits provided under any defined benefit
29 plan shall be based on a member's final compensation. "Final
30 compensation" shall mean the average annual compensation earned
31 by the member during the consecutive 5-year period immediately
32 preceding his or her retirement or last separation from public
33 service, if earlier. For the purposes of this subparagraph, "final
34 compensation" shall not include any compensation for accrued
35 leave of any form or compensation for overtime work or special
36 compensation and shall only include the member's rate of base
37 pay.

38 (D) The pension benefits provided under any defined benefit
39 plan shall not exceed the contribution and benefit base, as
40 calculated for purposes of determining federal Old-Age, Survivors,

1 and Disability Insurance benefits, pursuant to Section 430(b) of
2 Article 42 of the United States Code, or its successor. If the formula
3 contained in Section 430(b) of Article 42 of the United States
4 Code, or its successor, is altered, then the maximum permissible
5 amount of the pension benefit described in this subparagraph shall
6 be determined by using the contribution and benefit base in the
7 year prior to the alteration, as adjusted annually by the consumer
8 price index.

9 (d) On and after July 1, 2012, a person shall not be employed
10 by, or provide personal services as a contractor for, a public
11 employer while he or she is receiving pension payments from a
12 public retirement system.

13 (e) (1) If a public employee is convicted of any felony for
14 conduct related to his or her office or employment on or after the
15 effective date of this section, he or she shall forfeit all rights and
16 benefits to which he or she is entitled in any public retirement
17 system in which he or she is a member.

18 (2) Any contributions to the public retirement system made by
19 the public employee described in paragraph (1) shall be returned,
20 without interest, to the public employee.

21 (f) This section shall not limit any disability, death, or survivor
22 benefits that may be provided by a public employer.

23 (g) Beginning within 30 days after the effective date of this
24 section, the actuary for the State Teachers' Retirement System, or
25 its successor, shall set an actuarially sound contribution rate to be
26 paid annually to the State Teachers' Retirement System, or its
27 successor, which rate shall be used as a basis for increasing the
28 State's contribution to the system and shall not be used as a basis
29 for increasing employer or employee contributions.

30 (h) (1) On or before July 1, 2012, the Legislature, by statute,
31 the Regents of the University of California, and the governing
32 body of each local public employer that provides employee health
33 care benefits shall increase the amount that public employees
34 contribute to the cost of their employee health care benefits and
35 shall provide for a contribution amount that is proportional to the
36 base pay of the employee but does not exceed the cost of the health
37 care benefits provided to the employee.

38 (2) (A) A public employer that provides postretirement health
39 care benefits shall require employees who are first hired on or after
40 July 1, 2012, and who are members of a public retirement system,

1 to make contributions to fund their postretirement health care
2 benefits, which contributions shall be in an amount that is
3 proportional to the base pay of the employee and his or her years
4 of creditable service but does not exceed the actuarial cost of the
5 postretirement health care benefits to be provided to the employee.
6 An employee shall not be eligible for full postretirement health
7 care benefits until the employee has attained 25 years of creditable
8 service. Those public employers shall also require that those
9 employees continue to pay a contribution for health care benefits
10 after retirement.

11 (B) The public employer shall not pay on behalf of a member
12 any of the member's share of the cost of postretirement health care
13 benefits.

14 (C) The public employer shall retain the right to prospectively
15 modify postretirement health care benefits for any member prior
16 to retirement.

17 (3) This subdivision shall not impair any collective bargaining
18 agreement or memorandum of understanding that is in effect on
19 the effective date of this section, but shall apply upon the expiration
20 of any such agreement or memorandum of understanding.

21 (i) (1) This section shall be self-executing.

22 (2) Any bill, ordinance, resolution, or other measure enacted to
23 implement any provision of this section shall require for passage
24 a two-thirds vote of the membership of each house of the
25 Legislature, the Regents of the University of California, or the
26 governing body of a local public employer. Any bill enacted to
27 change public employee retirement benefits or health care benefits
28 shall require for passage a two-thirds vote of the membership of
29 each house of the Legislature.

30 Second—That subdivision (b) of Section 8 of Article XVI
31 thereof, is amended to read:

32 (b) Commencing with the 1990–91 fiscal year, the moneys to
33 be applied by the State for the support of school districts and
34 community college districts shall be not less than the greater of
35 the following amounts

36 (1) The amount which, as a percentage of General Fund revenues
37 which may be appropriated pursuant to Article XIII B, equals the
38 percentage of General Fund revenues appropriated for school
39 districts and community college districts, respectively, in fiscal
40 year 1986–87. *For the purposes of this paragraph, "General Fund*

1 *revenues appropriated for school districts and community college*
2 *districts, respectively, in fiscal year 1986–87” excludes General*
3 *Fund revenues appropriated to the Controller for transfer to the*
4 *Teachers’ Retirement Fund.*

5 (2) The amount required to ensure that the total allocations to
6 school districts and community college districts from General Fund
7 proceeds of taxes appropriated pursuant to Article XIII B and
8 allocated local proceeds of taxes shall not be less than the total
9 amount from these sources in the prior fiscal year, excluding any
10 revenues allocated pursuant to subdivision (a) of Section 8.5,
11 adjusted for changes in enrollment and adjusted for the change in
12 the cost of living pursuant to paragraph (1) of subdivision (e) of
13 Section 8 of Article XIII B. This paragraph shall be operative only
14 in a fiscal year in which the percentage growth in California per
15 capita personal income is less than or equal to the percentage
16 growth in per capita General Fund revenues plus ~~one-half of one~~
17 *one-half of 1 percent.*

18 (3) (A) The amount required to ensure that the total allocations
19 to school districts and community college districts from General
20 Fund proceeds of taxes appropriated pursuant to Article XIII B
21 and allocated local proceeds of taxes shall equal the total amount
22 from these sources in the prior fiscal year, excluding any revenues
23 allocated pursuant to subdivision (a) of Section 8.5, adjusted for
24 changes in enrollment and adjusted for the change in per capita
25 General Fund revenues.

26 (B) In addition, an amount equal to ~~one-half of one~~ 1 percent
27 times the prior year total allocations to school districts and
28 community colleges from General Fund proceeds of taxes
29 appropriated pursuant to Article XIII B and allocated local proceeds
30 of taxes, excluding any revenues allocated pursuant to subdivision
31 (a) of Section 8.5, adjusted for changes in enrollment.

32 (C) This paragraph (3) shall be operative only in a fiscal year
33 in which the percentage growth in California per capita personal
34 income in a fiscal year is greater than the percentage growth in
35 per capita General Fund revenues plus ~~one-half of one~~ *one-half of*
36 *1 percent.*

37 (4) *For the 2012–13 fiscal year, for the purposes of paragraphs*
38 *(2) and (3), “total allocations from General Fund proceeds of*
39 *taxes appropriated pursuant to Article XIII B and allocated local*
40 *proceeds of taxes” for the prior fiscal year shall exclude General*

1 *Fund revenues appropriated for purposes of the State Teachers'*
2 *Retirement System.*

3 Third—That subdivision (b) of Section 17 of Article XVI
4 thereof, is amended to read:

5 (b) The members of the retirement board of a public pension
6 or retirement system shall discharge their duties with respect to
7 the system solely in the interest of, and for the exclusive purposes
8 of providing benefits to, participants and their beneficiaries,
9 minimizing employer contributions thereto, *to the extent allowed*
10 *by prevailing actuarial and, if applicable, governmental accounting*
11 *standards and contractual provisions*, and defraying reasonable
12 expenses of administering the system. A retirement board's duty
13 ~~to its ensure prompt delivery of required benefits to the system's~~
14 participants and their beneficiaries shall take precedence over any
15 other duty.

16 Fourth—That subdivision (e) of Section 17 of Article XVI
17 thereof is repealed.

18 ~~(e) The retirement board of a public pension or retirement~~
19 ~~system, consistent with the exclusive fiduciary responsibilities~~
20 ~~vested in it, shall have the sole and exclusive power to provide for~~
21 ~~actuarial services in order to assure the competency of the assets~~
22 ~~of the public pension or retirement system.~~

23 Fifth—That subdivision (e) is added to Section 17 of Article
24 XVI thereof, to read:

25 (e) (1) Consistent with its duties described in subdivision (b),
26 the retirement board of a public pension or retirement system shall
27 select an independent plan actuary who shall serve for a term of
28 not less than 12 years. An independent plan actuary shall be
29 selected from a list of three to five qualified actuaries who are
30 willing to serve in the position, and that list shall be developed by
31 the California Actuarial Advisory Panel or a successor entity
32 described in a statute approved by a vote of two-thirds of the
33 membership of each house of the Legislature. If practicable, at
34 least two of the actuaries on that list shall be residents of the county
35 in which a single-county retirement system is located and at least
36 one of the actuaries on that list shall be a current resident of another
37 state. Following his or her initial term of service, an independent
38 actuary may be appointed by the retirement board to one or more
39 subsequent terms of service. The independent plan actuary's salary
40 and benefits shall not be reduced during the actuary's term of office

1 except with his or her consent, and his or her salary agreement
2 shall provide for annual increases in pay equal to, or greater than,
3 increases in an applicable consumer price index, except in fiscal
4 years in which the Governor issues a proclamation declaring a
5 fiscal emergency pursuant to subdivision (f) of Section 10 of
6 Article IV.

7 (2) The office of the independent plan actuary shall become
8 vacant only upon the expiration of the actuary's term of service;
9 his or her death, imprisonment following a felony conviction, or
10 voluntary resignation; or upon his or her removal for cause as
11 permitted by this paragraph. The independent plan actuary may
12 be removed from office for cause only upon both of the following:

13 (A) A resolution to remove the actuary passed by four-fifths of
14 the membership of the retirement board.

15 (B) In the case of a local retirement or pension system, a
16 resolution to remove the actuary passed by all members present
17 and voting of the county board of supervisors or the governing
18 board of the public employer or, in the case of a state retirement
19 or pension system, including the State Teachers' Retirement
20 System, but excluding the University of California Retirement
21 System, a resolution to remove the actuary passed by four-fifths
22 of the membership of each house of the Legislature.

23 (3) The independent plan actuary shall have the exclusive power
24 to provide for actuarial services in order to ensure the competency
25 of the assets of a public pension or retirement system. A retirement
26 board shall adopt the independent plan actuary's recommendations
27 without amendment. The independent plan actuary, in making
28 actuarial determinations, setting required contribution rates, and
29 developing actuarial assumptions, shall be guided by prevailing
30 actuarial standards, any applicable governmental accounting
31 standards, provided that the governmental accounting standards
32 are consistent with prevailing actuarial standards, and any contracts
33 permitted by this Constitution related to the required funding of
34 the system by members, the State, or public employers. In making
35 those recommendations, the independent actuary shall also seek
36 to maximize the beneficiaries' retirement security and minimize
37 the employer's long-term cost.

38 (4) Within six months after the effective date of the measure
39 that adds this subdivision, plan actuaries of public pension or
40 retirement systems who were not selected pursuant to the

1 requirements of this subdivision shall be replaced by independent
2 plan actuaries selected pursuant to this subdivision. The
3 independent plan actuaries shall perform all duties previously
4 specified in law or contract for the replaced plan actuaries
5 consistent with this subdivision.

6 (5) The retirement board of a public pension or retirement
7 system shall ensure that the independent plan actuary has sufficient
8 staff and budgetary resources to perform all of his or her required
9 duties.

10 Sixth—That subdivision (f) of Section 17 of Article XVI thereof
11 is amended to read:

12 (f) (1) With regard to the retirement board of a public pension
13 or retirement system which includes in its composition elected
14 employee members, the number, terms, and method of selection
15 or removal of members of the retirement board which were required
16 by law or otherwise in effect on July 1, 1991, shall not be changed,
17 amended, or modified by the Legislature unless the change,
18 amendment, or modification enacted by the Legislature is ratified
19 by a majority vote of the electors of the jurisdiction in which the
20 participants of the system are or were, prior to retirement,
21 employed.

22 (2) *At least two-thirds of the members of the retirement board*
23 *of a public pension or retirement system, who are elected or*
24 *appointed on or after the effective date of the measure adding this*
25 *paragraph, shall have demonstrated expertise in the financial,*
26 *legal, accounting, or health care fields, shall not be members of*
27 *that system, and shall not have any immediate family members*
28 *who are members of that system. The criteria and process for*
29 *selecting those members may be prescribed by a statute enacted*
30 *by a two-thirds vote of the membership of each house of the*
31 *Legislature.*

32 Seventh—That, notwithstanding any other provision of law,
33 including the Constitution, if the Attorney General fails to defend
34 the constitutionality of this act, following its approval by the voters,
35 a taxpayer of this State shall have the authority to intervene and
36 participate for that purpose in any court action challenging the
37 constitutionality of this act and the fees and costs of defending the
38 action shall be a charge on funds appropriated to the Attorney
39 General, which shall be satisfied promptly.

1 Eighth—That the provisions of this measure are severable. If
2 any provision of this measure or its application is held invalid, that
3 finding shall not affect other provisions or applications that can
4 be given effect without the invalid provision or application.

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